

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD THOMAS KENNEDY,  
Plaintiff,

v.

3:19-cv-124  
Case No.  
JURY TRIAL DEMANDED  
VERIFIED

BOROUGH OF MINERSVILLE PENNSYLVANIA,  
RICHARD C. CLINK, in his official and individual  
capacity, THOMAS G. SAYLOR, in his official and  
individual capacity, SUPREME COURT OF  
PENNSYLVANIA, MEGAN BRENNAN,  
in her official and individual capacity  
THOMAS MARSHALL in his official and  
individual capacity and UNITED STATES  
POSTAL SERVICE,  
Defendants,

FILED  
SCRANTON

JAN 22 2019

PER JH  
DEPUTY CLERK

COMPLAINT

TAKE JUDICIAL COGNIZANCE

A. This court may close on January 25, 2019, but the Case Management/Electronic Case Files (CM/ECF) system remains in operation for the electronic filing of documents. Kennedy hereby "objects" to the closure of this court for its violates US law.<sup>1</sup>

B. Kennedy believes this Complaint is unique and distinct from other cases and claims made by the plaintiff in this third circuit court, and uniquely includes new information concerning his loss of rights for the government and its employees exceeded its jurisdiction, and damaged Kennedy, and injured Kennedy in loss of rights in Cases in Magistrate Court in Port Carbon, Pennsylvania.<sup>2</sup>

C. In re Dismissal for Failure to State a Claim

FAILURE TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED

"The general rule in appraising the sufficiency of a complaint about failure to state a claim is that a complaint should not be dismissed '\*\*\*unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'

<sup>1</sup> Judiciary to Continue Funded Operations Until Jan. 25, Published on January 16, 2019, link here:  
<https://www.uscourts.gov/news/2019/01/16/judiciary-continue-funded-operations-until-jan-25>

<sup>2</sup> MJ-21301-CR-0000016-2017 MDJ-21-3-01 Comm. v. Kennedy, Edward T., link here:  
<https://ujportal.pacourts.us/DocketSheets/MDJ.aspx>

CONLEY VS. GIBSON (1957), 355 U.S. 41, 45, 46, 78 S.Ct. 99, 102, 2 LEd 2d 80; SEYMOUR VS. UNION NEWS COMPANY, 7 Cir., 1954, 217 F.2d 168; and see rule 54c, demand for judgment, FEDERAL RULES OF CIVIL PROCEDURE, 28 USCA: "\*\*\*\*every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings."

U.S. V. WHITE COUNTY BRIDGE COMMISSION (1960), 2 Fr Serv 2d 107, 275 F2d 529, 535

"A complaint may not be dismissed on motion if it states some sort of claim, baseless though it may eventually prove to be, and inartistically as the complaint may be drawn. Therefore, under our rules, the plaintiff's allegations that he is suing in 'criminal libel' should not be liberally construed. [3] The complaint is hard to understand but this, with nothing more, should not bring about a dismissal of the complaint, particularly is this true where a defendant is not represented by counsel, and in view of rule 8{f} of the rules of civil procedure, 28 U.S.C., which requires that all pleadings shall be construed as to do substantial justice BURT VS. CITY OF NEW YORK, 2Cir., (1946) 156 F.2d 791. Accordingly, the complaint will not be dismissed for insufficiency. [4,5] Since the Federal Courts are courts of limited jurisdiction, a plaintiff must always show in his complaint the grounds upon which that jurisdiction depends."

STEIN VS. BROTHERHOOD OF PAINTERS, DECORATORS, AND PAPERHANGERS OF AMERICA, DCCDJ (1950), 11 F.R.D. 153.

"A complaint will not be dismissed for failure to state a claim, even though inartistically drawn and lacking in allegations of essential facts, it cannot be said that under no circumstances will the party be able to recover."

JOHN EDWARD CROCKARD VS. PUBLISHERS, SATURDAY EVENING POST MAGAZINE OF PHILADELPHIA, PA (1956) Fr Serv 29, 19 F.R.D. 511, DCED Pa 19 (1958).<sup>3</sup>

D. Executive Order 13825 concerning 2018 Amendments to the Manual for Courts-Martial, United States (March 1, 2018) effective January 1, 2019.<sup>4</sup>

E. Executive Order 13818—Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption (December 20, 2017).

F. Executive Order 13829, Executive Order on the Task Force on the United States Postal System.<sup>5</sup>

## INTRODUCTION

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<sup>3</sup> See also "FRCP 8f: CONSTRUCTION OF pleadings. All pleadings shall be so construed as to do substantial justice." DIOGUARDI VS. DURNING, 2 CIR., (1944) 139 F2d 774

<sup>4</sup>

<https://www.federalregister.gov/documents/2018/03/08/2018-04860/2018-amendments-to-the-manual-for-courts-martial-united-states>

<sup>5</sup> <https://www.whitehouse.gov/presidential-actions/executive-order-task-force-united-states-postal-system/>

## JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331. Jurisdiction is also proper pursuant to 18 U.S.C. § 1965, which allows for nationwide jurisdiction pursuant to the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968.<sup>6</sup> The Venue is the Judicial District of this Court because the events leading to the claim for relief arose in Dauphin County and Schuylkill County Pennsylvania.

## FIRST CAUSE OF ACTION – TRESPASS ON THE CASE

### PARTIES

2. Edward Thomas Kennedy, (hereinafter "Kennedy" or "Plaintiff") is one of the people of Pennsylvania, and in this court of record complains of each of the following: Borough of Minersville Pennsylvania ("Miners"), Richard C. Clink in his official and individual capacity ("Clink"), Thomas G. Saylor in his official capacity and individual capacity ("Saylor"), United States Postal Service ("USPS"), Megan Brennan ("Brennan") in her official capacity and individual capacity, Thomas Marshall in his official capacity and individual capacity ("Marshall") and Supreme Court of Pennsylvania ("SC") hereinafter "Defendant," and "Defendants;" who are each summoned to answer and declare under penalty of perjury, in a plea of trespass on the case, Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968<sup>7</sup>

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<sup>6</sup> 18 U.S. Code § 1961 - Elements of Racketeering et seq.

Racketeering encompass a wide range of criminal activities that are directed towards generating a profit. The actual income-generating activities may constitute a criminal offense. Borough of Minersville, an organized criminal enterprise, and a transnational criminal organization, pursued financial fraud evidenced herein from the official public record, Efforts by defendants to conceal the criminal nature of these activities may also constitute criminal offenses.

<sup>7</sup> 18 U.S. Code § 1961 - Elements of Racketeering et seq.

Racketeering encompass a wide range of criminal activities that are directed towards generating a profit. The actual income-generating activities may constitute a criminal offense. Borough of Minersville, an organized criminal enterprise, and a transnational criminal organization, pursued financial fraud evidenced herein from the

claims, trespass on the case - vicarious liability, failure to provide a republican form of government, and intentional infliction of emotional distress, to wit:

3. Each Defendant exceeded their jurisdiction by either directly, through an agent, or in concert with another did cause Kennedy to be unlawfully injured against his will, without jurisdiction or good cause. Said Defendants, without good cause, harmed Kennedy in Case MJ-21301-CR-0000016-2017, MDJ-21-3-01, Commonwealth of Pennsylvania v. Kennedy, for Kennedy received no Notice or Summons from Defendants by US Mail.

4. The Postmaster General of the United States Postal Service is its Chief Executive Officer ("CEO") of the Defendant United States Postal Service;<sup>8</sup> Megan Brennan is the current CEO and Postmaster General and Brennan is not General Postmaster, prima facie evidence of the Defendant's probable intent to commit financial fraud under RICO, and failure to provide a Republican form of government.

5. The Defendant USPS is in the business of controlling, leasing, and licensing the other Defendants for services, including the following:

a. USPS is a corporation with only a Board of Governors, and a Temporary Emergency Committee, but no Board of Directors.<sup>9</sup>

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official public record, Said activity may also expose County of Schuylkill and Borough of Minersville to prosecution under the federal mail and wire fraud statutes, and now in this state of emergency, military law. Efforts by defendants to conceal the criminal nature of these activities may also constitute criminal offenses.

<sup>8</sup> 15. USPS headquarters and its executive offices are at 475 L'Enfant Plaza SW, Washington, District Of Columbia 20260-0546.

<sup>9</sup> Link here: <https://about.usps.com/who/leadership/welcome.htm>

b. A corporation with no Board of Directors operates in financial fraud and is prima facie evidence of RICO violations concerning financial fraud.

c. USPS does not compete fairly in commercial markets and is subsidized by the United States (US) government and/or US Department of Defense.

d. USPS gives subsidies to Amazon.com Inc. in this judicial district.<sup>10</sup>

e. USPS is expected to lose tens of billions of dollars over the next decade, according to the US President Trump Executive Order on USPS.

6. Defendant Thomas Marshall is USPS General Counsel and approves the financial fraud crimes by his signature on official documents and financial reports. Marshall is a Pennsylvania Attorney.<sup>11</sup> Defendant Supreme Court of Pennsylvania is a private corporation, Administrative Office Of Pennsylvania Courts, 200 North 3rd Street Floor 16 Harrisburg, PA 17101. Web: [www.pacourts.us](http://www.pacourts.us).<sup>12</sup> Source: Manta.com. County of Schuylkill is a corporation, and a subsidiary of the Commonwealth of Pennsylvania, and has its principal executive offices at 401 North Second Street, Pottsville, PA 17901.<sup>13</sup> Defendant Borough of Minersville Pennsylvania is a political subdivision of County of Schuylkill and a corporation. Its principal executive offices are at 2 East Sunbury Street,

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<sup>10</sup> Trump orders Postal Service review after blasting Amazon deal, link here:

<https://www.theverge.com/2018/4/13/17233024/trump-executive-order-post-office-amazon>

<sup>11</sup> PA Attorney ID: 50275, link here:

<https://www.padisiplinaryboard.org/for-the-public/find-attorney/attorney-detail/50275>

<sup>12</sup> Supreme Court Of Pennsylvania

Phone: 717-772-1599. Web: [www.pacourts.us](http://www.pacourts.us)

Name: Thomas Saylor Job Title: Principal

Source: <https://www.manta.com/c/mm7wcsq/supreme-court-of-pennsylvania>.

Supreme Court Of Pennsylvania is a privately held company in Harrisburg, PA .

Categorized under State Courts. Current estimates show this company has an annual revenue of unknown and employs a staff of approximately 5 to 9.

<sup>13</sup> <https://www.co.schuylkill.pa.us/>

Minersville, PA 17954. Defendant Borough of Minersville is a criminal enterprise and both Clink and Saylor have a duty not to injure Kennedy in loss of rights, to wit:

a. Justice in Pennsylvania is broken, administered by Defendant Thomas G. Saylor, a very senior citizen and corrupt public official, who in the year 2019 may now be charged with treason for failing to obey the rule of law with his criminal intentions and failure to honor his oath of office. For example, Saylor assumes fake judicial power and fake authority in his so-called "King's Bench" <ahem> "law" - prima facie evidence of treason under military law now in effect. Saylor dishonored Kennedy's demand to review Judicial Misconduct at the Defendant Supreme Court of Pennsylvania

b. Kennedy alleges Clink and Saylor had no "beyond a reasonable doubt" evidence against Kennedy the Said case heretofore stated under Federal Rules of Evidence, rule 902.

c. Saylor's agents failed to shared Exculpatory evidence with Kennedy, in violation of US law. The Brady doctrine is a pretrial discovery rule that was established by the United States Supreme Court in Brady v. Maryland (1963). The rule requires that the prosecution must turn over all exculpatory evidence to the defendant in a criminal case. Exculpatory evidence is evidence that might exonerate the defendant.<sup>14</sup> Saylor withheld exculpatory evidence from Kennedy.

8. Plaintiff Kennedy files this complaint on his common-law Tort and RICO claims and alleges Judgment, in this case, must be granted because the self-authenticating financial evidence establishes elements of plaintiff's claims listed herein:

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<sup>14</sup> Brady v. Maryland, 373 U.S. 83 (1963), link here:  
<https://supreme.justia.com/cases/federal/us/373/83/>

a. as a matter of law,<sup>15</sup>

b. Executive Orders and the Case against Kennedy listed hereinabove,

c. the fact that Defendants USPS, Supreme Court of Pennsylvania and Defendant Borough of Minersville use alternative metrics to avoid generally accepted accounting principles (GAAP), with intentions to commit financial fraud, by defendants, for personal economic and private gain, evidenced by their participation in Commonwealth of Pennsylvania pension benefits.<sup>16</sup>

d. it is a financial fraud crime to lie, misreport or misconstrue information by the government in published financial reports under RICO law,

e. Human Rights Abuse and Corruption by defendants against Plaintiff Kennedy.

9. From the moment he was harmed until the present, Kennedy, under color of law, was kept in constructive imprisonment by the defendants.<sup>17</sup>

10. Each defendant today acted in such a way or failed to act in such a way, that Kennedy is injured and damaged. Each defendant acted to deprive Kennedy of his liberty, and/or each defendant failed to act to prevent the loss by Kennedy of his liberty. Further, each defendant is a willing participant in concert with each of the remaining defendants.

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<sup>15</sup> It is well-settled that "the provisions of RICO shall be liberally construed to effectuate its remedial purposes." U.S. v. Eisenberg, 773 F. Supp. 662 (D.N.J. 1991)

<sup>16</sup> Under Rule 902, said evidence is self-authenticating.

<sup>17</sup> In 1913, The United States was conquered by secrecy and stealth by an international criminal enterprise that includes British Banks and the Federal Reserve System by controlling the nation's banks and money. This violates US law, Human Rights and the US Constitution at Article I, Section 8.

11. At all times mentioned in this action each defendant is the agent of the other, and in doing the acts alleged in this action, each is acting within the course and scope of the said agency. The following paragraphs describe what the defendants, under color of law, either acted or failed to act as obligated.

12. Each defendant exceeded his jurisdiction under color of law. Each defendant acted in concert with the remaining defendants to affect the unlawful loss of liberty of Kennedy, his good reputation, and his ability to earn a living.

13. Defendants have breached that duty, and their fiduciary duty to one of the people, Kennedy. The damages for the injury caused by defendants' actions are \$5,000 for each day of unlawful behaviors for each defendant, or \$100,000.00 from each defendant, whichever is greater.

14. The damages for the injury caused by the defendant's' absence of required action is \$5,000 for each failure to act or \$500,000.00 from each defendant, whichever is greater.

## SECOND CAUSE OF ACTION - RICO

15. Paragraphs 1 through 14 is included by reference as though fully stated herein.

16. Kennedy sues Defendants in a multi-count cause of action under common law Torts and also under The Racketeer Influenced and Corrupt Organizations Act commonly referred to as RICO Act or simply RICO, a US federal law that provides for extended criminal penalties and a civil cause of action for injuries for acts performed as



part of an ongoing criminal organization<sup>18</sup> including RICO violations that includes the following:

17. The Defendants have systematically and continuously, over the last ten (10) years and more, conducted a corrupt enterprise in violation of the Racketeer Influenced and Corrupt Organization ("RICO") Act, all of which acts are continuing in nature. As grounds, therefore beginning in 2008 to the present, Defendants misstated, misinformed and filed fake financial records on government websites, supported by self-authenticating digital evidence.

RICO violations by Defendant USPS includes the following:

a. USPS has incurred \$65 billion of cumulative losses since the 2007-2009 recession, according to President Trump, evidence RICO financial fraud with no intent to earn profits and destroy competition;

b. The Defendant USPS has systematically and continuously, over the last ten (10) years, and more, conducted a corrupt enterprise in violation of the Racketeer Influenced and Corrupt Organization ("RICO") Act, all of which acts are continuing in nature. As grounds, therefore beginning in 2008 to the present.

c. Defendants USPS, Brennan and her predecessors, misstated, misinformed and filed fake financial records on government websites, supported by self-authenticating digital evidence, incurred \$65 billion of cumulative losses since the 2007-2009 recession.

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<sup>18</sup> 18 U.S. Code § 1961 - Elements of Racketeering et seq.

Racketeering encompass a wide range of criminal activities that are directed towards generating a profit. The actual income-generating activities may constitute a criminal offense. County of Schuylkill., an organized criminal enterprise, and a transnational criminal organization, pursued financial fraud evidenced herein from the official public record.

d. The fact that USPS Corporation and USPS CEO Megan Brennan and General Counsel Thomas Marshall use alternative metrics to avoid generally accepted accounting principles (GAAP)<sup>19</sup> and for private, personal economic gain.

e. It is a financial fraud crime to lie or misconstrued information to the government and we the people, and Brennan lied, misstated and misconstrued financial reports notably without a Board of Directors.

f. Kennedy believes no insurance corporation will write liability insurance for USPS for liability because their fraud goes back to 1789, and Ben Franklin, in Philadelphia Pennsylvania, the first General Postmaster. Brennan does not have an unbroken line of succession back to Benjamin Franklin, the first General Postmaster and thus operates under a foundation of lies, misinformation and fraud.<sup>20</sup>

g. USPS does not compete fairly in Pennsylvania and therefore violates RICO law and probably also anti-trust law of the US government.

19. The damages claimed are all a result of the injuries.

### **THIRD CAUSE OF ACTION – TRESPASS ON THE CASE -VICARIOUS LIABILITY**

20. Paragraphs 1 through 19 are included by reference as though fully stated herein.

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<sup>19</sup> Brennan and Marshall are federal government employees.

<sup>20</sup> Brennan and Marshall are federal government employees who may be charged with treason under military law now in effect.

21. Power is never without responsibility. And when authority derives in part from Government's thumb on the scales, the exercise of that power by defendant Petrus is closely akin, in some respects, to its exercise by Government itself.

22. The purpose of imposing vicarious liability is to ensure the costs of injuries resulting from defective actions are placed on the source of the actions and others who make the actions possible rather than on injured persons who are powerless to protect themselves. For a defendant to be vicariously liable it must play an integral and vital part in the overall production and promotion activity so that the actor is in a position to affect others or, at the very least, it must provide a link in the chain of exposing the ultimate victim to the actor. The vicariously liable defendant must be in the business of controlling, leasing, bailing or licensing the actors. Each defendant is an agent of the other, and each has his place in the chain of exposing plaintiff Kennedy to the actors. Each defendant is vicariously liable for each instance of injury to the plaintiff.

23. The damages claimed are all a result of the injuries.

#### FOURTH CAUSE OF ACTION – FAILURE TO PROVIDE A REPUBLICAN FORM OF GOVERNMENT

24. Paragraphs 1 through 23 are included by reference as though fully stated herein.

25. Kennedy wishes Defendants to not breach their fiduciary duty to Kennedy. Kennedy wishes Defendants to not breach their oaths of offices.

26. Kennedy wishes Defendants not to lie, mislead, misconstrue, misrepresent and/or put false information into either this court of record or the official public record.

The Constitution guarantees to every state a Republican form of government (Art. 4, Sec. 4).

27. No state may join the United States unless it is a Republic. Our Republic is one dedicated to "liberty and justice for all." Minority individual rights are the priority.

28. The people have natural rights instead of civil rights. The people are protected by the Bill of Rights from the majority. One vote in a jury can stop all of the majority from depriving any one of the people of his rights; this would not be so if the United States were a democracy. The business model of USPS, the Borough of Minersville and the Supreme Court of Pennsylvania and its financial accounting agents are based on a foundation of deceptions, lies and fraud.

29. The damages claimed are all a result of the injuries.

#### FIFTH CAUSE OF ACTION – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

30. Paragraphs 1 through 29 are included by reference as though fully stated herein.

31. Kennedy states that Clink had no evidence to charge Kennedy with Harassment under Federal Rules of Evidence, Rule 902.<sup>21</sup>

32. Kennedy states that Saylor had no evidence to charge Kennedy with Harassment under Federal Rules of Evidence, Rule 902.

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<sup>21</sup> 13) Certified Records Generated by an Electronic Process or System. A record generated by an electronic process system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of Rule 902(11) or (12). The proponent must also meet the notice requirements of Rule 902(11).

(14) Certified Data Copied from an Electronic Device, Storage Medium, or File. Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of Rule (902(11) or (12). The proponent also must meet the notice requirements of Rule 902 (11).

33. Kennedy states Saylor provided Kennedy with no Notice to Appear to confront his accuser Clink in the heretofore said case.

34. Kennedy States Defendant USPS provided Kennedy with no Notice to Appear to confront his accuser Clink in the heretofore said case by US mail.

35. Kennedy States Defendant Brennan provided Kennedy with no Notice to Appear to confront his accuser Clink in the heretofore said case by US mail.

36. Kennedy States Defendant Marshall provided Kennedy with no Notice to Appear to confront his accuser Clink in the heretofore said case by US mail.

37. Elements of intentional infliction of emotional distress as a tort is as follows: (1) the defendant must act intentionally or recklessly; (2) the defendant's conduct must be extreme and outrageous, and (3) the conduct must be the cause (4) of severe emotional distress.

38. Kennedy says all four elements are met.

39. The damages claimed are all a result of the injuries.

#### LAW OF THE CASE

40. Exhibit "1" is incorporated by reference as though fully stated herein. The date of the claim is the date of the hearing.

41. Statutes and codes shall be the rules of decision as long as they are not in conflict with the common law.

#### REQUEST FOR RELIEF

42. For that cause of action, therefore, Plaintiff brings his suit.

43. WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as follows:

On all causes of action:

44. For general damages in the sum of \$5,000 for each day of unlawful behaviors for each defendant, or \$100,000.00 from each defendant, whichever is greater;

45. For damages for the injury caused by the defendant's' absence of required actions of \$5,000 for each failure to act; or \$100,000.00 from each defendant, whichever is greater;

46. That the court enter a declaratory judgment that defendants have acted arbitrarily and capriciously, have abused their discretion and have acted not in accordance with law, but under color of law;

47. That the court enter a declaratory judgment that defendants have acted contrary to constitutional right, power or privilege;

48. That the court enter a declaratory judgment that defendants' actions were in excess of statutory jurisdiction, authority and short of statutory right;

49. That the court permanently enjoin defendants from interfering in any way with Kennedy's lawful rights and provide him with a lawful government;

50. That the court permanently enjoin defendants from interfering in any way with Kennedy's lawful rights and honor their fiduciary duty to Kennedy;

51. That the court grant such, other and further relief as the court deems proper;

52. For interest as allowed by law;

53. For costs of suit incurred;

54. That the court order Saylor and Supreme Court of Pennsylvania to expunge data and records that injured Kennedy and return all fines and fess paid by Kennedy;

55. That the court grant his attorneys fees;

56. That the court Order each defendant to compensate Kennedy \$100,000 for injury and damages under First Cause of Action – Trespass on the Case;

57. That the court Order Borough of Minersville to compensate Kennedy \$100,000 for injury and damages under Second Cause of Action – RICO, tripled under RICO to \$300,000;

58. That the court Order Defendants USPS and Supreme Court of Pennsylvania to compensate Kennedy \$300,000 each for injury and damages under Second Cause of Action – RICO, tripled under RICO to \$300,000;

59. That the court Order each defendant to compensate Kennedy \$100,000.00 for injury and damages under Third Cause of Action – Trespass on the Case - Vicarious Liability;

60. That the court Order USPS and Supreme Court of Pennsylvania to compensate Kennedy \$10,000,000 for injury and damages under Fourth Cause of Action – Failure to Provide a Republican Form of Government;

61. That the court Order Defendants USPS and Supreme Court of Pennsylvania to compensate Kennedy \$1,500,000.00 for injury and damages under Fifth Cause of Action – Intentional infliction of emotional distress;

62. That upon proper Motion, the Court Order Defendants to compensate Kennedy with punitive damages;

63. I, Edward Thomas Kennedy, declare under penalty of perjury that the foregoing facts are true and correct to the best of my knowledge.

Date: January 18, 2019.

*/s/ Edward Thomas Kennedy (seal)*

A handwritten signature in dark ink, appearing to be 'ETK', is written over a circular notary seal. The seal contains the word 'SEAL' in capital letters.

Edward Thomas Kennedy, Plaintiff

401 Tillage Road

Breinigsville, Pennsylvania

Telephone: 415-275-1244.

Fax: 570-609-1810.

Email: kennedy2018@alumni.nd.edu

Attached: Exhibit 1, Law of the Case (15 pages)

Notice of Constitutional Questions Forthcoming to PA Attorney Shapiro.



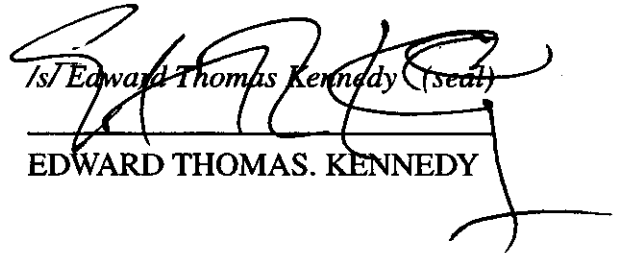
**CERTIFICATE OF SERVICE**

I hereby certify that on January 18, 2019, I filed the foregoing Complaint, Exhibit 1 Law of the Case, and this Certificate of Service to the Clerk of this Court by regular US mail,

and to the following relevant party By US regular Mail:

Mark A. Milley, General  
Chairman of the Joint Chiefs of Staff  
9999 Joint Staff Pentagon  
Washington, DC 20318-9999

Dated this 18th day of January 2019.

  
*/s/ Edward Thomas Kennedy (seal)*  
EDWARD THOMAS. KENNEDY

**Exhibit 1 LAW OF THE CASE**

Law of the Case is decreed as follows as though fully stated in the complaint.

1. Statutes and codes shall be the rules of decision as long as they are not in conflict with the common law. (See the use of dictionaries in the Supreme Court of the United States, by Kevin Werbach Looking It Up: The Supreme Court's Use of Dictionaries in Statutory and Constitutional Interpretation (1994). When the word law is used in the US Constitution, they mean the common law.

2. In a court of record, a judge has no discretion. Discretion is reserved to the independent tribunal. When the word "law" is used without qualification, it means common law. An "attorney at law" means one who practices common law. (notwithstanding the fact that modern attorneys ignore the subject). An "attorney in equity" is one who practices before an equity court.

3. Absolute Judicial immunity is a myth. A Judge does not have absolute immunity. Judicial immunity does not apply when the following conditions exist:

- a. when he is performing a non-judicial act, or
- b. when he acts in the complete absence of all jurisdiction.

4. Statutes are expressions of will from the legislature. To maintain confusion, Bar members append the word "law" to it. Naturally, one is supposed to then believe that statutory law is the same as and equal to common law (it isn't!). There is no legislative foundation for any Bar member to "practice" law.

5. Codes are nothing more than a collection of statutes and other rules arranged by subject instead of being arranged by date. Law beats statutes; statutes beat codes.

6. The California 1879 Constitution defines all California courts to be courts of record. California Government code says in two statutes: The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.<sup>1</sup>

7. Commonwealth of Pennsylvania maintains confusion and deception with multiple versions of its Constitution. Commonwealth of Pennsylvania has had five versions of constitutions 1776, 1790, 1838, 1874, and 1968.<sup>2</sup>

8. "Whereas it is essential if a man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law," (Preamble - Universal Declaration of Human Rights)

9. Nisi Prius is defined as: "a court where civil actions are tried by a single judge sitting with a jury, as distinguished from an appellate court." This means the nisi prius court is a Trial Court which of course is where the facts of a case are discovered. A nisi prius court is a "court of no record," but a record is kept in a trial court. The mere keeping of a record does not qualify any court to be a court of record.

<sup>1</sup> California Government Code - 11120 and 54950.

<sup>2</sup> See John J. Kennedy, Pennsylvania Government and Politics, 1st Edition, Cognella publisher, 2018. Chapter 3, pages 79 to 90.

**Exhibit 1 LAW OF THE CASE**

10. Black's Law Dictionary, Fifth Edition, contributes to the confusion by listing only two of the four requirements for a court to qualify as a court of record. For the full explanation, see <https://www.1215.org/lawnotes/lawnotes/courtrec.htm>.

11. In California, all courts are named as courts of record. However, if in an individual case they are not operated as courts of record, then they don't qualify as such. It takes more than a name to make a court of record. Even though a court may be keeping a record, it is a court of no record if it does not conform to the remaining three requirements for a lawful court of record.

12. A court of record is a court which must meet the following criteria:

1. generally has a seal
2. power to fine or imprison for contempt
3. keeps a record of the proceedings
4. proceeding according to the common law (not statutes or codes)
5. the tribunal is independent of the magistrate (judge)

Notice that a judge is a magistrate and is not the tribunal, and the tribunal is either the sovereign himself or a fully empowered jury (not a jury paid by the government).

13. Black's Law Dictionary's omissions are subtle but one can recombine the information and get to the real meaning of terms such as "nisi prius".

14. "Nisi prius" is a Latin term. Individually, the words mean this: "Prius" means "first." For example, "Prius vitiis laboravimus, nunc legibus" means "We labored first with vices, now with laws." Quoted from Black's Law Dictionary, Fifth Edition. "Nisi" means "unless." Quoting from B.L.D., 5th Ed.: "The word is often affixed as a kind of elliptical expression, to the words 'rule,' 'order,' 'decree,' 'judgment,' or 'confirmation,' to indicate that the adjudication spoken of is one which is to stand as valid and operative unless the party affected by it shall appear and show cause against it, or take some other appropriate step to avoid it or procure its revocation."

15. "Nisi prius court" is a court which will proceed unless a party objects. The agreement to proceed is obtained from the parties first.

16. It is a matter of right that one may demand to be tried in a court of record as defined herein. By sheer definition, that means that the court must proceed according to the common law (not the statutory law). The only way that a court can suspend that right is by the prior agreement of the parties.

17. For tactical reasons, the Commonwealth of Pennsylvania and/or the state and/or State prefers to proceed according to statutory law rather than common law. The only way it can do that is to obtain the prior agreement from the parties. That is the primary (but hidden) purpose of the arraignment procedure.

18. During arraignment choices for pleading are only guilty, not guilty, nolo contendere, but all three choices lead to the same jurisdiction, namely a statutory jurisdiction, not a common law jurisdiction. That is to say, the question to be decided is whether or not the statute was violated, not whether the common law was violated.

19. The dictionary does not lie in its definition of a nisi prius court but it does omit some important information. Namely, that it is a court that has been set up by prior agreement assumed because when the three statutory options [guilty, not guilty, nolo contendere] were presented to the defendant he chose one. He thus failed to enforce his right to be prosecuted in a court of record.

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20. Once the agreement (as evidenced in the arraignment proceeding) has been secured, the court proceeds under statutory authority. Now the court ceases to be a court of record and becomes a court of no record by prior lack of objection, i.e. by prior agreement implied by failure to object.

21. Naturally, after securing the agreement, a nisi prius court can move on to examine the facts with a judge and jury, etc. etc.

22. The criminal court is an inferior court because it is operating according to special rules (criminal code) and not according to the common law. Even if its name is "Superior Court of ...." it is still an inferior court so long as it is operating according to some code or statutes rather than the common law. On the other hand, a court of record, so long as it meets the criteria, is a truly superior court. The decisions and proceedings of an inferior court are not presumed to be valid. The inferior court can be sued in a superior court (that's called a "collateral attack"). In other words, the superior court (court of record) outranks the inferior court, not of record."

23. Government Manipulation of Language. The first "trick" of the Government is the re-definition of certain critical words in each Statute (Act) The Government assumes the ordinary meaning of the word so as to trick the public into reading and interpreting the Statute in their favor. Here is a summary of some of the Trick Words. Two keywords that are re-defined in almost every Statute are the words "person" and "individual". There is at least two "person" in law: A natural-person is a legal entity for the human being.

An artificial-person is a legal entity that is not a human being. (Here are the exact definitions from Barron's Canadian Law Dictionary, fourth edition (ISBN 0-7641-0616-3): natural person. A natural person is a human being that has the capacity for rights and duties. artificial person. A legal entity, not a human being, recognized as a person in law to whom certain legal rights and duties may attach - e.g. a body corporate.)

24. The natural-person has the "capacity" (i.e. ability) for rights and duties, but not necessarily the obligation. The artificial-person has rights and duties that may be attached (i.e. assigned) bylaws.

25. The second "trick" of the Government is to use the Interpretation Act to define words that apply to all Statutes unless re-defined within a particular Statute. Without this knowledge, one could assume the ordinary meaning for the words one is reading, not realizing that they may have been defined by the Interpretation Act. Unless these words have been re-defined in another Statute, the underlying definitions for the two most important words still apply, either from the Interpretation Act, or the Canadian Law Dictionary.

Basically, they are defined as follows:

- a. from the Canadian Law Dictionary one can find that:  
individual means a natural person,
- b. from the Income Tax Act find the re-definition:  
individual means an artificial person.
- c. from the Canadian Law Dictionary find that:  
person means an individual (natural person) or an incorporated group (artificial person),
- d. from the Interpretation Act find the re-definition:  
person means a corporation (an artificial- person),
- e. from the Income Tax Act find the re-definition again:  
person means an artificial person (amongst other things).

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26. In the Canadian Human Rights Act, one can see how individual and person are used and how they are applied to natural and artificial persons.

27. The third "trick" of the Government is to use the word "includes" in definitions instead of using the word "means". They do this in some critical definitions that they want to be misinterpreted. If they used "means" instead of "includes" then their deception would be exposed, but by using "includes" they rely upon the reader to assume that "includes" expands the definition, whereas, in reality, it restricts the definition in the same manner that "means" restricts the definition.

28. Here is a means definition of the word "person" from the Bank Act:  
person means a natural person, an entity or a personal representative;

29. Here is an includes definition of the word "person" from the Interpretation Act:  
person, or any word or expression descriptive of a person, includes a corporation  
To expose their deception, substitute the word means or any word or expression descriptive of a person, means a corporation (viz. artificial-person)

30. Both "means" and "includes" are restrictive in scope because they only encompass part of the whole. Typically they are used in the following form:

person means A or B or C (and nothing else).

person includes A and B and C (and nothing else).

31. From the above example, one sees the logical difference. The list that follows means is constructed using "or", whereas the list that follows includes is constructed using "and".

32. There is a Legal Maxim that supports the restriction of "includes" which is as follows: *Inclusio unius est exclusio alterius*. The inclusion of one is the exclusion of another. The definition of the word include is key to understanding the potential loss of the natural person. This is the major trick used by the Government in an attempt to take away natural-person rights. Unless this is known one voluntarily forfeits rights.

33. The fourth "trick" of the Government is to modify how the word "includes" is used in order to make an expansion in the definition when such expansion is required. This "trick" helps add confusion to the use of "includes" convincing most readers that "includes" should always be expansive rather than limiting. Here are some legitimate ways in which "includes" is modified to become expansive rather than restrictive:

also includes, and includes, includes, without limitation, including, including but not limited to

34. The expansive definitions usually take the following form:  
person means A or B or C and includes D. (A,B, C and D). However, there is also a possibility that "and includes" is restrictive in some constructions. There are some people investigating this possibility right now. Their logic is demonstrated by the following example of a definition that states: province means a province of Canada and includes Ontario and Quebec.

So, if one presumes that "and includes" does provide expansion then one must ask why Ontario and Quebec had to be specifically mentioned when they are already part of a so-called province.

35. The above construction clearly defines the scope of what is meant by province, that is a province of Canada (it does not say which one), and includes only Ontario and Quebec (compiled from a list of two from the original scope of all provinces). In this construction, means provides the scope of the definition and includes provides the list of what is actually included in the definition.

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36. The foregoing analysis is one interpretation but is not the only interpretation. The use of "includes" in statutory definitions can be argued both ways and is the backbone of understanding interpretations.

37. With the presumption that "and includes" is restrictive, then we must take a very close look at the following definition, taken from the Interpretation Act: province means a province of Canada and includes the Yukon Territory, the Northwest Territories and Nunavut.

38. With this presumption what is stated is: unless another statute re-defines province, the default definition of province only includes the Yukon Territory, the Northwest Territories and Nunavut.

39. So in order to not become absurd, we must allow for "and includes" to be expansive, however, more work needs to be done on this subject before placing the last nail in the coffin, so to speak.

40. Barron's Canadian Law Dictionary does not provide definitions for "include" or "means" therefore we have to look in the next source for the definitions.

41. From Black's Law Dictionary, fourth edition, here is the definition for the word "include":

include. To confine within, hold as in an enclosure, take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Including may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words heretofore used.

inclose. To surround; to encompass; to bound; fence, or hem in, on all sides.

It is stated in the above definition that the verb include is clearly restrictive and only has limited scope. On the other hand, the participle, including (but not limited to) enlarges the scope.

42. Therefore the conclusion is that when used in a definition, include does not expand the existing definition of the word it is attempting to define.

43. It is easy to be confused because one naturally assumes the existing definition of the word, then assume include means to add this new interpretation to the existing assumed definition of the word. Our assumptions fail us in this case.

44. For the Doubting Thomas: If one looks into any statute, one will be able to find a definition that uses the word includes and attempts to broaden the scope of that word to include the ordinary meaning, find that the statute will break down because it will not be able to support the inclusion of the ordinary meaning of the word.

45. The breakdown usually occurs when slavery is invoked.

46. Courts may be classified and divided according to several methods, the following being the more usual: COURTS OF RECORD and COURTS NOT OF RECORD.

47. The former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt. The error lies to their judgments, and they generally possess a seal.

48. Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the proceedings are not enrolled or recorded. See 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.

49. A "court of record" is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding

according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial. See *Jones v. Jones*, 188 Mo. App. 220, 175 S.W. 227, 229; *Ex parte Gladhill*, 8 Metc. Mass., 171, per Shaw, C.J. See, also, *Ledwith v. Rosalsky*, 244 N.Y.

50. CONFIRMATIO CARTARUM, (conforming charter)

October 10, 1297, **By Edward, King of England**, reaffirms that the Magna Carta may be pleaded as the Common Law before a court.

This links the Magna Carta to the Common Law.

The U.S. Constitution guarantees one's access to the Common Law, i.e. the Magna Carta.

( See "Sources of Our Liberties" Edited by Richard L. Perry, American Bar Foundation; distributed by Associated College Presses, 32 Washington Place, New York 3, New York.).

51. The Constitution guarantees to every state a Republican form of government (Art. 4, Sec. 4).

52. No state may join the United States unless it is a Republic. Our Republic is one dedicated to "liberty and justice for all." Minority individual rights are the priority. The people have natural rights instead of civil rights. The people are protected by the Bill of Rights from the majority. One vote in a jury can stop all of the majority from depriving any one of the people of his rights; this would not be so if the United States were a democracy.

53. The definition of sovereignty retains the meaning it had at the time the US Constitution was formed. Who is the Tribunal? Answer: The sovereign, the ultimate Judge.

54. ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves..... [*CHISHOLM v. GEORGIA* (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL (1793) pp 471-472.]

55. The very meaning of 'sovereignty' is that the decree of the sovereign makes law. [*American Banana Co. v. United Fruit Co.*, 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.]

56. Where rights secured by the Constitution are involved, there can be no rulemaking or legislation which would abrogate them. [*Miranda v. Arizona*, 384 US 436, 491.]

57. There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights. [*Sherer v. Cullen*, 481 F 946.]

58. Republican government. One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives are chosen by the people, to whom those powers are specially delegated. [*In re Duncan*, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; *Minor v. Happersett*, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627." *Black's Law Dictionary*, Fifth Edition, p. 626.]

59. The Commonwealth of Pennsylvania is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land. Notice and see Pennsylvania Constitution, all versions.

60. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby; any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. [Constitution for the United States of America, Article VI, Clause 2.]

61. Conspiracy against rights: If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District

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in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured - They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death. [18, USC 241]

62. Deprivation of rights under color of law: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death. [18, USC 242]

63. COURT. The person and suit of the sovereign; the place where the sovereign sojourns with his regal retinue, wherever that may be.<sup>3</sup>

64. COURT. An agency of the sovereign created by it directly or indirectly under its authority, consisting of one or more officers, established and maintained for the purpose of hearing and determining issues of law and fact regarding legal rights and alleged violations thereof, and of applying the sanctions of the law, authorized to exercise its powers in the course of law at times and places previously determined by lawful authority.<sup>4</sup>

65. COURT OF RECORD. To be a court of record a court must have four characteristics and may have a fifth. They are:

A. A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

B. Proceeding according to the course of common law [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

<sup>3</sup> Black's Law Dictionary, 5th Edition, page 318.

<sup>4</sup> Isbill v. Stovall, Tex.Civ.App., 92 S.W.2d 1067, 1070; Black's Law Dictionary, 4th Edition, page 425.



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C. Its acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. the U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231]

D. Has power to fine or imprison for contempt. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. the U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law Dictionary, 4th Ed., 425, 426]

E. Generally possesses a seal. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. the U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law Dictionary, 4th Ed., 425, 426]

66. The following persons are magistrates: ...The judges of the superior courts.... [California Penal Code, Sec. 808.] ...our justices, sheriffs, mayors, and other ministers, which under us have the laws of our land to guide, shall allow the said charters pleaded before them in judgment in all their points, that is to wit, the Great Charter as the common law.... [Confirmatio Cartarum, November 5, 1297, Sources of Our Liberties Edited by Richard L. Perry, American Bar Foundation]

67. Henceforth the writ which is called Praeceptum shall not be served on anyone for any holding so as to cause a free man to lose his court. [Magna Carta, Article 34].

68. If any claim, statement, fact, or portion in this action is held inapplicable or not valid, such a decision does not affect the validity of any other portion of this action.

69. The singular includes the plural and the plural the singular. The word people is both singular and plural.

70. The present tense includes the past and future tenses; and the future, the present.

71. The masculine gender includes the feminine and neuter.

72. We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

73. Through the courts, Plaintiff Kennedy encourages the government to obey the law.

75. Edward Thomas Kennedy, Plaintiff, is one of the people and in the court of record, wishes and demands individual defendants, and/or their counsel, to reply and testify, affirm, and/or declare under penalty of perjury to his complaint.

76. The Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law. Warnock v. Pecos County, 88 F.3d 341 (5th Cir. 07/08/1996), Ex parte Young, 209 U.S. 123, 155-56, 52 L.

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Ed. 714, 28 S. Ct. 441 (1908); *Edelman v. Jordan*, 415 U.S. 651, 664, 39 L. Ed. 2d 662, 94 S. Ct. 1347 (1974); *Brennan v. Stewart*, 834 F.2d 1248, 1252 (5th Cir. 1988).

77. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of receipts and expenditures of all public money shall be published from time to time."<sup>5</sup>

78. The Constitution of the United States of America, Article II Section 2. "The judicial power shall extend to all cases, in law and equity,<sup>6</sup> arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states; between a state and citizens of another state;--between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed."

79. Charter for the Province of Pennsylvania-1681.<sup>7</sup>

80. Penn's Charter of Liberty - April 25, 1682.<sup>8</sup>

81. Charter of Privileges Granted by William Penn, Esq. to the Inhabitants of Pennsylvania and Territories, October 28, 1701.<sup>9</sup>

82. Constitution of Pennsylvania - September 28, 1776.<sup>10</sup>

83. Small points of the law are not law.

84. Trespass means injury committed with force, actual or implied; immediate and not consequential; if the property involved, the property was in actual or constructive possession of the plaintiff at the time of injury. Source: Koffler: Common Law Pleading, 152 (1969)

85. Trespass on the Case – In practice, means the form of action by which a person seeks to recover damages caused by an injury unaccompanied with force or which results indirectly from the act of the defendant. It is more generally called, simply, case. Source: 2 Bouvier's Law Dictionary 610 (1867).

<sup>5</sup> Article I, Section 9, Clause 7, U.S. Constitution, [link here](https://constitution.solar.com/the-appropriations-clause-a-history-of-the-constitutions-as-of-yet-underused-clause/)

<https://constitution.solar.com/the-appropriations-clause-a-history-of-the-constitutions-as-of-yet-underused-clause/>

<sup>6</sup> Law here means common law.

<sup>7</sup> [http://avalon.law.yale.edu/17th\\_century/pa01.asp](http://avalon.law.yale.edu/17th_century/pa01.asp)

<sup>8</sup> [http://avalon.law.yale.edu/17th\\_century/pa03.asp](http://avalon.law.yale.edu/17th_century/pa03.asp)

<sup>9</sup> [http://avalon.law.yale.edu/18th\\_century/pa07.asp](http://avalon.law.yale.edu/18th_century/pa07.asp)

<sup>10</sup> [http://avalon.law.yale.edu/18th\\_century/pa08.asp](http://avalon.law.yale.edu/18th_century/pa08.asp)

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86. "...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves; the citizens of America are equal as fellow citizens, and as joint tenants in the sovereignty." CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL 1793 pp 471-472.

87. The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. Through the medium of their Legislature they may exercise all the powers which previous to the Revolution could have been exercised either by the King alone, or by him in conjunction with his Parliament; subject only to those restrictions which have been imposed by the Constitution of this State or of the U.S. Lansing v. Smith, 21 D. 89., 4 Wend 9 (1829) (New York)  
 "D." = Decennial Digest, Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89  
 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 1'67;  
 48 C Wharves Sec. 3, 7. NOTE: Am.Dec.=American The decision, Wend. = Wendell (N.Y.)

88. Law of Armed Conflict, Senator Lindsey Graham Questions Brett Kavanaugh Military Law vs Criminal Law, link here:  
[https://www.youtube.com/watch?v=3\\_gmOsnjrZw&index=25&list=WL&t=0s](https://www.youtube.com/watch?v=3_gmOsnjrZw&index=25&list=WL&t=0s).  
 The case cited by Graham and Kavanaugh is here: YASER ESAM HAMDI v. DONALD H. RUMSFELD, SECRETARY OF DEFENSE, et al., link here:  
<http://law2.umkc.edu/faculty/projects/ftrials/conlaw/hamdi.html>.

89. California Government Code Sections 11120 and 54950 contain strong statements about the sovereignty of the people.

90. CALIFORNIA CODES GOVERNMENT CODE SECTION 54950-54963 54950. In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

91. CALIFORNIA CODES GOVERNMENT CODE SECTION Section 11120: It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed. In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly. The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

92. SCOTUS recognizes personal sovereignty, June 16, 2011.  
[https://www.supremecourt.gov/opinions/13pdf/12-158\\_6579.pdf](https://www.supremecourt.gov/opinions/13pdf/12-158_6579.pdf).

93. CONSTITUTIONAL PREAMBLES

Constitution for the United States of America: We the People of the United States, in

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Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

1849 California Constitution: WE the people of California, grateful to Almighty God for our freedom: in order to secure its blessings, do establish this Constitution.

1879 State of California Constitution: We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

In all three constitutions (and the constitution of any real republic) the operative word is "establish." People existed in their own individual sovereignty before the constitution was enabled. When the People "establish" a constitution, there is nothing in the word "establish" that signifies that they have yielded any of their sovereignty to the agency they have created. To interpret otherwise would convert the republic into a democracy. Also, see the legislated notice from the People to the government written in the California Government Codes 11120 and 54950 quoted herein.

94. To deprive the People of their sovereignty it is first necessary to get the People to agree to submit to the authority of the entity they have created. That is done by getting them to claim they are citizens of that entity (see Constitution for the U.S.A., XIV Amendment, for the definition of a citizen of the United States.)

95. 14 C.J.S. 426, 430 The particular meaning of the word "citizen" is frequently dependent on the context in which it is found <sup>11</sup>, and the word must always be taken in the sense which best harmonizes with the subject matter in which it is used. <sup>12</sup> One may be considered a citizen for some purposes and not a citizen for other purposes, as, for instance, for commercial purposes, and not for political purposes. <sup>13</sup> So, a person may be a citizen in the sense that as such he is entitled to the protection of his life, liberty, and property, even though he is not vested with the suffrage or other political rights. <sup>14</sup>

96. SOVEREIGNTY Black's Law Dictionary, Fourth Edition  
The power to do everything in a state without accountability,--to make laws, to execute and to apply them, to impose and collect taxes and levy contributions, to make war or peace, to form treaties of alliance or of commerce with foreign nations, and the like. Story, Const. Sec 207  
Sovereignty in government is that public authority which directs or orders what is to be done by each member associated in relation to the end of the association. It is the supreme power by which any citizen is governed and is the person or body of persons in the state to whom there is politically no superior. The necessary existence of the state and that right and power which necessarily follow is "sovereignty." By "sovereignty in its largest sense is meant supreme, absolute, uncontrollable power, the absolute right to govern. The word which by itself comes nearest to being the definition of "sovereignty" is will or volition as applied to political affairs. <sup>15</sup>

<sup>11</sup> Cal.--Prowd v. Gore, 2 Dist. 207 P. 490. 57 C.A. 458.

<sup>12</sup> Cal.--Prowd v. Gore. 2 Dist. 207 P. 490. 57 C.A. 458. La.--Lepenser v Griffin, 83 So. 839, 146 La. 584  
N.Y.--Union Hotel Co. v. Hersee, 79 N.Y. 454.

<sup>13</sup> U.S.--The Freundschaft, N.C., 16 U.S. 14, 3 Wheat. 14, 4 L.Ed. 322

--Murray v. The Charming Betsy, 6 U.S. 64, 2 Cranch 64, 2 L.Ed. 208 Md.--Risewick v. Davis, 19 Md. 82  
Mass.--Judd v. Lawrence, 1 Cush 531.

<sup>14</sup> Mass.--Dillaway v. Burton, 153 N.E. 13, 256 Mass. 568.

<sup>15</sup> City of Bisbee v. Cochise County, 52 Ariz. 1, 78 P.2d 982, 986.

**Exhibit 1 LAW OF THE CASE****STATE Black's Law Dictionary, Fourth Edition**

A People permanently occupying a fixed territory bound together by common-law habits and custom into one body politic exercising, through the medium of an organized government, independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace and of entering into international relations with other communities of the globe.<sup>16</sup>

97. In concluding his list of grievances against the Parliament and crown, Jefferson used a reference to natural rights that was to be the core of the Declaration of Independence he drafted two years later: . . . That these are our grievances which we have thus laid before his majesty, with that freedom of language and sentiment which becomes a free people claiming their rights, as derived from the laws of nature, and not as the gift of their chief magistrate.<sup>17</sup>

98. "In *Chisholm*, the Justices of the Supreme Court rejected Georgia's claim to be sovereign. They concluded instead that, to the extent, the term "sovereignty" is even appropriately applied to the newly-adopted Constitution, it rests with the people, rather than with state governments."<sup>18</sup>

99. A person may be a citizen for commercial purposes and not for political purposes."<sup>19</sup>

**100. Lieber Code**

The Lieber Code of April 24, 1863, also known as Instructions for the Government of Armies of the United States in the Field, General Order № 100,[1][2] or Lieber Instructions, was an instruction signed by US President Abraham Lincoln to the Union Forces of the United States during the American Civil War that dictated how soldiers should conduct themselves in wartime.

**101. 18 U.S. Code § 2384 - Seditious conspiracy**

If two or more persons in any State or Territory, or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be fined under this title or imprisoned not more than twenty years, or both.

(June 25, 1948, ch. 645, 62 Stat. 808; July 24, 1956, ch. 678, § 1, 70 Stat. 623; Pub. L. 103-322, title XXXIII, § 330016(1)(N), Sept. 13, 1994, 108 Stat. 2148.)

**102. 18 U.S. Code § 2381 - Treason**

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than \$10,000; and shall be incapable of holding any office under the United States.

<sup>16</sup> *United States v. Kusche*, D.C.Cal., 56 F.Supp. 201, 207, 208. The organization of social life which exercises sovereign power in behalf of the people. *Delany v. Moraitis*, C.C.A.Md., 136 F.2d 129, 130.

<sup>17</sup> <https://www.loc.gov/teachers/classroommaterials/connections/thomas-jefferson/history3.html>

<sup>18</sup> *In re Chisholm v. Georgia*, 2 U.S. (Dall.) 419 (1793). Barnett, Randy E., *The People or The State?: Chisholm V. Georgia and Popular Sovereignty*. *Virginia Law Review*, Vol. 93; Georgetown Public Law Research Paper No. 969557. Available at SSRN: <http://ssrn.com/abstract=969557>.

<sup>19</sup> *Field v. Adreon*, 7 Md. 209.

**Exhibit 1 LAW OF THE CASE**

(June 25, 1948, ch. 645, 62 Stat. 807; Pub. L. 103-322, title XXXIII, § 330016(2)(J), Sept. 13, 1994, 108 Stat. 2148.)

103. RESERVATION OF SOVEREIGNTY: "Even if the Tribe's power to tax were derived solely from its power to exclude non-Indians from the reservation, the Tribe has the authority to impose the severance tax. Non-Indians who lawfully enter tribal lands remain subject to a tribe's power to exclude them, which power includes the lesser power to tax or place other conditions on the non-Indian's conduct or continued presence on the reservation. The Tribe's role as a commercial partner with petitioners should not be confused with its role as sovereign. It is one thing to find that the Tribe has agreed to sell the right to use the land and take valuable minerals from it, and quite another to find that the Tribe has abandoned its sovereign powers simply because it has not expressly reserved them through a contract. To presume that a sovereign forever waives the right to exercise one of its powers unless it expressly reserves the right to exercise that power in a commercial agreement turns the concept of sovereignty on its head. *Merrion v. Jicarilla Apache Tribe*; *Amoco Production Company v. Jicarilla Apache Indian Tribe*, 455 U.S. 130, 131, 102 S.Ct. 894, 71 L.Ed.2d 21 (1981).

104. Effective January 1, 2019, 2018 Amendments to the Manual for Courts-Martial, United States, issued on March 1, 2018, Sec. 5. The amendments in Annex 2, including Appendix 12A, shall take effect on January 1, 2019, subject to the following:<sup>20</sup>

(a) Nothing in Annex 2 shall be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted.

105. Donald J. Trump Presidential Executive Orders must be followed by all government employees and BAR Association member Attorneys worldwide, and are as follows:

106 PA Consolidated Statutes, Title 42 § 321. Court of record.

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<https://www.whitehouse.gov/presidential-actions/2018-amendments-manual-courts-martial-united-states/>

a) Nothing in Annex 2 shall be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted.

(b) Nothing in section 4 of Annex 2 shall be construed to invalidate the prosecution of any offense committed before January 1, 2019. The maximum punishment for an offense committed before January 1, 2019, shall not exceed the maximum punishment in effect at the time of the commission of such offense.

(c) Nothing in Annex 2 shall be construed to invalidate any nonjudicial punishment proceeding, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to January 1, 2019. Except as otherwise provided in this order, the amendments in Annex 2 shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019. Except as otherwise provided in this order, proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been prescribed.

**Exhibit 1 LAW OF THE CASE**

Except as otherwise provided in this subpart every court of this Commonwealth shall be a court of record with all the qualities and incidents of a court of record at common law. See also Exhibit 1, Law of the Case for a true definition of court of record.<sup>21</sup>

## 107. PREAMBLE

WE, the people of the Commonwealth of Pennsylvania, grateful to Almighty God for the blessings of civil and religious liberty, and humbly invoking His guidance, do ordain and establish this Constitution.<sup>22</sup>

## 108. In re Dismissal for Failure to State a Claim

**FAILURE TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED**

"The general rule in appraising the sufficiency of a complaint about failure to state a claim is that a complaint should not be dismissed '\*\*\*unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'

CONLEY VS. GIBSON (1957), 355 U.S. 41, 45, 46, 78 S.Ct. 99, 102, 2 LEd 2d 80; SEYMOUR VS. UNION NEWS COMPANY, 7 Cir., 1954, 217 F.2d 168; and see rule 54c, demand for judgment, FEDERAL RULES OF CIVIL PROCEDURE, 28 USCA: "\*\*\*every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings."

U.S. V. WHITE COUNTY BRIDGE COMMISSION (1960), 2 Fr Serv 2d 107, 275 F2d 529, 535

"A complaint may not be dismissed on motion if it states some sort of claim, baseless though it may eventually prove to be, and inartistically as the complaint may be drawn. Therefore, under our rules, the plaintiff's allegations that he is suing in 'criminal libel' should not be liberally construed. [3] The complaint is hard to understand but this, with nothing more, should not bring about a dismissal of the complaint, particularly is this true where a defendant is not represented by counsel, and in view of rule 8{f} of the rules of civil procedure, 28 U.S.C., which requires that all pleadings shall be construed as to do substantial justice BURT VS. CITY OF NEW YORK, 2Cir., (1946) 156 F.2d 791. Accordingly, the complaint will not be dismissed for insufficiency. [4,5] Since the Federal Courts are courts of limited jurisdiction, a plaintiff must always show in his complaint the grounds upon which that jurisdiction depends."

STEIN VS. BROTHERHOOD OF PAINTERS, DECORATORS, AND PAPERHANGERS OF AMERICA, DCCDJ (1950), 11 F.R.D. 153.

<sup>21</sup> court of record a. issue to be decided and b. The decision that was made.

<sup>22</sup> WE the people created the government, and we the people do not yield our sovereignty to those agencies that serve us.

**Exhibit 1 LAW OF THE CASE**

"A complaint will not be dismissed for failure to state a claim, even though inartistically drawn and lacking in allegations of essential facts, it cannot be said that under no circumstances will the party be able to recover."

JOHN EDWARD CROCKARD VS. PUBLISHERS, SATURDAY EVENING POST  
MAGAZINE OF PHILADELPHIA, PA (1956) Fr Serv 29, 19 F.R.D. 511, DCED Pa 19  
(1958)

"FRCP 8f: CONSTRUCTION OF pleadings. All pleadings shall be so construed as to do substantial justice."

DIOGUARDI VS. DURNING, 2 CIR., (1944) 139 F2d 774



January 17, 2019

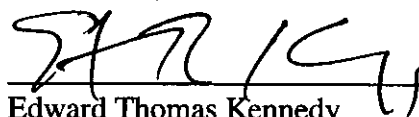
By regular US mail  
Peter J Welsh, Acting Clerk of Court  
U.S. District Court  
Middle District of Pennsylvania  
PO Box 1148  
235 N. Washington Avenue  
Scranton, PA 18501-1148

Dear Acting Clerk of Court Welsh,

Please file on demand the enclosed new case documents without delay, and protect my privacy in all cases in this court, meaning redact or do not file my Application(s) to Waive fees <sup>①</sup> and correct all other defects previously requested.

Please call me if you have any questions.

Respectfully submitted,



Edward Thomas Kennedy

401 Tillage Rd

Breinigsville, PA 18031

Phone: (415) 275-1244

Fax: (570) 609-1810

Email: Kennedy2018@alumni.nd.edu

① possibly file under Seal?

